

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LOUIS BATISTA,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS, et al.,

Defendants.

Case No. C04-5413RBL

ORDER DENYING
DEFENDANTS' MOTION TO
EXCLUDE WITHOUT
PREJUDICE

This matter is before Court on the Defendants' Motion to Exclude Plaintiff's Expert Witnesses for failure to comply with Fed. R. Civ. P. 26. [Dkt. # 86].

Plaintiff apparently does not contest that he has failed to adequately disclose the opinions, or even the identity, of any anticipated expert witness. Instead, he responds that the court should appoint an expert to testify on his behalf, under Rule 706. [See Dkt. # 88].

The Defendants correctly point out that even where the court has the discretion, in certain circumstances not present here, to appoint a neutral expert for the court's own benefit, that expert is not permitted to have a bias "for" or "against" a party. The Plaintiff does not in fact desire a neutral expert, and even if he did, this is not the sort of case where the court will exercise its discretion and appoint such an expert. There is, in any event, no basis for appointing an expert to testify on behalf of Mr. Batista. The court therefore will not appoint an expert.

However, given Mr. Batista's pro se status, the court will permit him to attempt to obtain an

1 expert and to properly disclose him or her within 45 days of this order. In the meantime, the Motion to
2 exclude is DENIED. If Plaintiff does not obtain and properly disclose an expert, the Defendants' motion
3 will be granted.

4 DATED this 1st day of December, 2006.

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6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE
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